

Minutes of the Centerville **City Council** meeting held Tuesday, April 1, 2014 at 7:00 p.m. in the Centerville City Hall Council Chambers, 250 North Main Street, Centerville, Utah.

MEMBERS PRESENT

Mayor Paul A. Cutler

Council Members Ken S. Averett
Tamilyn Fillmore
John T. Higginson
Stephanie Ivie
Lawrence Wright

STAFF PRESENT

Steve Thacker, City Manager
Blaine Lutz, Finance Director/Assistant City Manager
Lisa Romney, City Attorney
Cory Snyder, Community Development Director
Bruce Cox, Parks and Recreation Director
Katie Rust, Recording Secretary

VISITORS Interested citizens (see attached sign-in sheet)

PLEDGE OF ALLEGIANCE

PRAYER OR THOUGHT Steve Thacker, City Manager

OPEN SESSION

William Ince – Mr. Ince asked for an update regarding UTOPIA, and asked for the City's position on legislation that did not pass in the Legislature recently regarding utility fees.

Mayor Cutler responded he will provide an update later in the meeting regarding UTOPIA. Macquarie is expected to provide their report later in April. Regarding the legislation, Mayor Cutler stated that the Utah League of Cities and Towns unanimously took the stand that it is not a State government's responsibility to control a local municipality's ability to institute a utility and charge a fee for that utility.

MINUTES REVIEW AND ACCEPTANCE

The minutes of the March 18, 2014 Council meeting, and March 19, 2014 work session and regular City Council meeting were reviewed. Councilman Higginson made a **motion** to approve all three sets of minutes. Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0).

SUMMARY ACTION CALENDAR

- a. Approve UDOT Betterment Agreement relating to Main & Parrish Intersection Project
- b. Adopt Resolution No. 2014-10 approving the Amendment to Animal Control Services Agreement between Centerville City and Davis County

Steve Thacker, City Manager, asked that the Council include the authority for staff to negotiate a possible slight revision regarding ongoing responsibility of the betterments to the approval of item (a) on the Summary Action Calendar. Councilman Wright requested an update on the fees related to item (b) on the Summary Action Calendar, and specifically asked about the bill received last year by the City for removal of bats at Stewart Elementary. Mr. Thacker reported that the bill from last year was adjusted to reflect a fee per incident rather than per animal. Councilman Wright stated he feels the School District, not the City, should cover expenses related to District property. Councilwoman Fillmore made a **motion** to approve both items on the Summary Action Calendar, giving authority for staff to negotiate maintenance language in the Betterment Agreement with UDOT relating to the Main & Parrish Intersection Project. Councilman Higginson seconded the motion, which passed by unanimous vote (5-0).

ASSIGNMENT AND ASSUMPTION AGREEMENT FOR LEGACY CROSSING LOT 403

Lisa Romney, City Attorney, explained the Assignment and Assumption Agreement request, and recommended that approval be subject to actual purchase of Lot 403 by Jensnt Legacy, LLC. Councilman Higginson made a **motion** to approve the Assignment Agreement between the City and Jensnt Legacy, LLC for Lot 403 of the Legacy Crossing Development and require the Assignment Agreement to be recorded against the property prior to issuance of a building permit for Lot 403, subject to the purchase of Lot 403 by Jensnt Legacy, LLC. Councilman Wright seconded the motion, which passed by unanimous vote (5-0).

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT – FENCES AND WALLS, SETBACKS, R-M ZONE

Cory Snyder, Community Development Director, explained the proposed Zoning Ordinance Text Amendment, which was initiated by Bruce and Nancy Smith to bring their property in compliance with the zoning code. The Planning Commission has reviewed and recommended the changes, which introduce the definition of side-yard to corner lots, and reduce the six-foot fencing setback from 20 feet to 18 feet in the R-M Zone. Mr. Snyder answered questions from the Council and drew a diagram to illustrate corner lot setbacks.

Mayor Cutler opened a public hearing at 7:40 p.m., and closed the public hearing when no one indicated a desire to speak.

Councilman Higginson made a **motion** to approve Ordinance No. 2014-07 amending Section 12-12-040 of the Centerville Zoning Ordinance regarding definition of corner lot and street side yard, amending Table 12-32-1 regarding setback standards for street side yards in the R-M Zone, and amending Subsection 12-55-110(b) regarding fences and wall, based on the findings recommended by the Planning Commission. Councilwoman Ivie seconded the motion.

Findings:

- a. The application was found to be complete for review by the Planning Commission and approval by the City Council.
- b. The proposed text amendment meets the factors to be considered for an amendment found in Section 12-21-080(e) of the Zoning Ordinance.
- c. The change was found to be consistent with the General Plan.
- d. A setback of 18 feet is consistent with parking requirements to allow for a vehicle to be parked in a driveway.

1 Councilwoman Fillmore stated she feels the amendment improves the definition of
2 corner lot, but feels the Council should stick clearly to the justification that was stated by the
3 Planning Commission. She stated she does not feel comfortable solving a code enforcement
4 problem with an ordinance change, unless the ordinance change makes sense. The Planning
5 Commission finding is that the change in setback makes sense because it leaves room for a car
6 to park. This would only be possible if the 18-feet were measured from the back of sidewalk.
7 Councilwoman Fillmore made a **motion** to amend the original motion to add to Table 12-32-1
8 the statement that the 18-foot setback begins from back of sidewalk or property line, whichever
9 is deeper into the property. The motion to amend failed for lack of second. The original motion
10 passed by majority vote (3-2), with Council members Averett and Fillmore dissenting.

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12 **DISCUSSION REGARDING OWNERSHIP OF THE CENTENNIAL CELEBRATION**
13 **BOOK**
14

15 Centerville was established as a municipality in 1915. In preparation for the Centennial
16 celebration in 2015 a Centennial Book Committee was formed. The Council and staff discussed
17 ownership of the Centennial Celebration Book. Lisa Romney, City Attorney, recommended that
18 someone other than the City own rights to the book, with the City donating a portion of the
19 funding. Councilman Wright mentioned that a lot of material for the book has been donated by
20 the Whitaker Museum, and expressed concern about giving up the rights to that material. He
21 asked if the Whitaker Museum could hold the rights to the book. Mayor Cutler responded both
22 the Whitaker Museum and the Centerville Community Foundation have been considered, but
23 both would have the same liability difficulties as the City. Councilman Wright commented it is
24 his understanding the Community Foundation is a separate corporation that would not have to
25 comply with the same municipal requirements as the City. Mayor Cutler recommended the
26 Centennial Book be treated similar to previous books about Centerville, with rights owned by the
27 authors. Councilman Higginson expressed that whoever does the bulk of the work should own
28 the copyright. City Manager Thacker stated his concern that if the City owns the rights, there
29 would be pressure for the City to come up with whatever printing costs are not received through
30 fundraising and book sales. The City would be required to bid the printing of the book. Mr.
31 Thacker suggested that Carr Printing retain the rights, since Mr. Carr is on the Book Committee
32 and has been involved with the pre-printing process. He feels there is an advantage in keeping
33 the pressure on those who have risk in the project, rather than counting on the City to be the
34 stop-gap. The City Council has approved up to \$10,000 for the book at this point.

35
36 Councilman Wright stated that he is sure the Committee will print the number of books
37 they are certain can be sold. Mayor Cutler responded that the nature of the printing business is
38 to print first, and then market and sell the product. Lisa Romney stated that the Book
39 Committee has indicated they are fine with either copyright situation. Councilman Averett stated
40 he was under the impression that the Book Committee will be looking to the City to be the stop-
41 gap. He stated that book sales will be best with books printed and ready for purchase.
42 Councilman Higginson stated he would like the Book Committee to do what they can to solicit
43 as much donation as possible to minimize the financial risk to the City. Councilwoman Fillmore
44 stated Centerville has a strong volunteer spirit, and she feels when the City gets too involved it
45 is easy for the volunteer spirit to get dampened. She would like the City to keep a distance and
46 lean towards those who put in the work to retain responsibility. Councilman Wright stated that
47 the motivation for the volunteers on the Committee is not to maintain ownership of the copyright;
48 the motivation is to celebrate the City. He proposed that by having the City take responsibility
49 for the book, assurance would be given that their work will continue with continuity. Councilman
50 Wright does not want to send a negative, unsupportive signal. Councilwoman Ivie stated she is
51 torn, and would like to make sure Mr. Carr is comfortable with whatever is decided. Councilman
52 Averett stated he feels the City should retain control of the book. He said he thinks the

1 Foundation is a great idea, and would also not want to see Mr. Carr cut out of the deal through
2 the City bidding process. Staff will meet again with the Book Committee to discuss the matter
3 further.
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5 **MAYOR'S REPORT**

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7 Mayor Cutler presented a brief history of UTOPIA, and lessons learned since 2004 when
8 UTOPIA was formed. He also presented a financial update of UTOPIA to the Council.
9 Councilman Wright stated he remembers the City approving the initial \$85 million bond, but
10 does not remember the City approving the additional \$100 million. Mayor Cutler responded with
11 an explanation of why the \$185 million was required – to refinance the \$85 million, take out the
12 RUS portion of the \$66 million, not all of which had been issued, and to provide additional
13 capital. Mayor Cutler showed the operating subsidy with and without litigation costs, and
14 explained efforts to reduce the operating expenses. He showed comparative data regarding
15 miles of fiber currently placed versus miles of fiber needing to be placed in Centerville and the
16 other UTOPIA cities, as well as take rate information for each of the UTOPIA cities. He reported
17 on discussions held between mayors of UTOPIA cities, and showed graphs of cash flow
18 assessment scenarios. The discussion also addressed that some UTOPIA cities, such as
19 Orem, are not paying their operational assessments. Highlighted was the inability to enforce the
20 payment of operating subsidies by UTOPIA cities. Mayor Cutler stated that all of the mayors will
21 be asking their city councils to pay operating assessments through September 2014.
22

23 **CLOSED MEETING**

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25 At 8:47 p.m. Councilman Wright made a **motion** to move into a closed meeting to
26 discuss the Ellison v. Centerville City litigation and upcoming mediation conference.
27 Councilwoman Ivie seconded the motion, which passed by unanimous vote (5-0). In attendance
28 were: Paul A. Cutler, Mayor; Council members Averett, Fillmore, Higginson, Ivie, and Wright;
29 Steve Thacker, City Manager; Blaine Lutz, Finance Director/Assistant City Manager; Lisa
30 Romney, City Attorney; Dennis Ferguson, Attorney with Williams & Hunt; Bruce Cox, Parks and
31 Recreation Director; and Katie Rust, Recording Secretary.
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33 The Council returned to regular meeting at 9:57 p.m. after a short recess.
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35 **PARKS AND RECREATION BUDGET PRESENTATION**

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37 Bruce Cox, Parks and Recreation Director, reported that the park impact fee fund
38 (known officially as the Parks Capital Improvement Fund) has grown to over \$300,000, which
39 will fund several phases of the six-acre Community Park expansion. He expressed his feelings
40 in favor of extending the RAP tax next year to fund improvements to existing parks. Mr. Cox
41 explained that the irrigation systems for all City parks can be connected to a central irrigation
42 control this year, due to UTOPIA. Councilwoman Fillmore asked if Wi-Fi would be possible in all
43 City parks. Mr. Lutz responded that providing Wi-Fi in the parks would be fairly low cost and
44 easy to do. Councilman Averett suggested the City post signs informing park visitors that Wi-Fi
45 is available. Mr. Cox reported that repair of the City Hall roof is included in his 3-year budget
46 projections.
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48 **APPOINTMENT**

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50 Mayor Cutler recommended Loren Pankratz be reappointed to the Parks Committee.
51 Councilman Wright made a **motion** to reappoint Loren Pankratz to the Parks Committee for a

three-year term. Councilwoman Fillmore seconded the motion, which passed by unanimous vote (5-0).

MAYOR'S REPORT (CONTINUED)

- The Mayor reported on a recent meeting with Trinity Industries.
- Mayor Cutler updated the Council on utility bill adjustments, and reported that the Mayor has authority to make exceptions for hardship cases for solid waste as well as water billing.
- The Council may meet in a work session on April 29th to discuss UTOPIA. The Mayor asked Council members to submit three to five names of citizens who could be involved in an education effort regarding upcoming UTOPIA decisions.

CITY MANAGER'S REPORT

- Mr. Thacker reported that staff has supplied the Taxpayer Advocate Office with everything requested to expedite the 501(c)3 application for the Centerville Community Foundation. A Taxpayer Advocate Office employee will be contacting him again on April 14th.
- Mr. Thacker provided a tentative work session calendar for April through early June.

Councilman Wright made a **motion** to table remaining items on the agenda to the next meeting. Councilwoman Fillmore seconded the motion, which passed by unanimous vote (5-0).

ADJOURNMENT

At 10:27 p.m. Councilman Wright made a **motion** to adjourn the meeting. Councilman Higginson seconded the motion, which passed by unanimous vote (5-0).

Marsha L. Morrow, City Recorder

Date Approved

Katie Rust, Recording Secretary